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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,185	12/29/2000	Larry R. Fairbanks	CPS1540-203B	8520
8698	7590	12/03/2003	EXAMINER	
STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			FITZGERALD, JOHN P	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,185

Applicant(s)

FAIRBANKS ET AL.

Examiner

John P Fitzgerald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed December 19, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Newly added fig. 4 shows reinforcement panel (90) in a configuration that was not disclosed in the specification as originally filed. In addition, the position of the reinforcement panel with respect to the siding panel 20 shown in fig. 4 was not described in the specification. These constitute new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on December 19, 2002 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of reinforcement panel (90) in a configuration shown in fig. 4, and the position of the reinforcement panel with respect to the siding panel 20 shown in fig. 4.

3. The objection on the drawings set forth in the previous office action is still standing and is repeated as follows.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the reinforcement panel must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. In addition, the drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first planar portion having a tongue connected to the first edge and a groove connected to the second edge as claimed in claims 6 and 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The first planar portion having a tongue connected to the first edge and a groove connected to the second edge as recited in claim 6 and 7 have no support in the specification. The specification discloses on page 4, third paragraph that a first planar portion has a tongue (or a groove) connected to one edge and a seam (or an edge of the adjacent planar portion) connected to the other edge. The drawing figures 1-3 also show this configuration.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grace, Sr. et al. (5,768,844) in view of Section 07460 on Siding of the Sweet's General Building & Renovation 1995 Catalog File (referred to hereinafter as the Sweet Catalog). Grace et al. disclose in fig. 2 the first planar portion having a first edge (adjacent the bend 26) and second edge (adjacent the seam connecting the second planar portion), the surface variance of less than 0.05 inches between the first edge and the second edge, a nailing strip (30) connected to the first edge, a tongue (24) and groove (20), a second planar portion connected to the first planar portion by a first seam (24) defining a stepped contour wherein the first planar portion is substantially similar to the second planar portion. Grace et al. does not show a siding having a third planar portions wherein each planar portion has the width of 4 inches or the thickness in the range of 0.04 – 0.05 inches, and the height of each seam is about 0.5 inches. However, the Sweet Catalog shows various siding products ranging from one planar portion (Castle Ridge on page 10), two planar portions (Castle Ridge and Cedar Lane) to three planar portions (Chatham Ridge on page 11) wherein the Cedar Lane vinyl siding product on page 13 and Castle Ridge are listed on page 20 as having a width of about 4 inches, and thickness of the planar portion in the range of 0.04 – 0.05 inches (see the listing of products specifications on page 20 of the Sweet Catalog and page 7 on Restoration Portfolio HP), and the height of each of the seams is shown to be about at least 0.5 inches (note the far right box on product Chatham Ridge on page 11). It would have been obvious to one having ordinary skill in the art to modify the siding of Grace to be a triple lap

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siding and to include the specific width/thickness of the planar portions and seam height as taught by the Sweet Catalog to accommodate the user's preference, the differences in building structures and to achieve a desired look.

8. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grace et al. and the Sweet Catalog as applied to claim 1 above, and further in view of Manning et al.

Grace et al. in view of the Sweet Catalog does not show a foam reinforcement panel secured to the first planar portion. Manning et al. teach securing a foam reinforcement panel (20) to the first planar portion (30) to enhance the thermal insulation property of the siding (10). It would have been obvious to one of ordinary skill in the art to modify the siding of Grace and the Sweet Catalog by securing a foam reinforcement panel secured to the first planar portion as taught by Manning et al. to enhance the thermal insulation property of the siding panel.

9. Claims 1, 4-14, 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone et al. in view of the Sweet Catalog. Johnstone et al. show in fig. 2 a siding panel having the first planar portion (46) having a first edge (34) and second edge (44), and a surface variance/radius curvature, a nailing strip (20) connected to the first edge, a tongue (14) and groove (12), a second planar portion (see fig. 1) connected to the first planar portion by a first seam (S) defining a stepped contour wherein the first planar portion is substantially similar to the second planar portion. Johnstone et al. do not show the surface variance/radius curvature of less than 0.05 inches between the first edge and the second edge, up to three planar portions wherein each planar portion has the width of 4 inches or the thickness in the range of 0.04 –0.05 inches, and the height of each seam is about 0.5 inches. However, the Sweet Catalog shows various siding products ranging from one planar portion (Castle Ridge on page 10), two planar portions

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(Castle Ridge, and Cedar Lane) to three planar portions (Chatham Ridge on page 11) whereas the Cedar Lane vinyl siding product on page 13 and Castle Ridge are listed on page 20 as having a width of about 4 inches, and thickness of the planar portion in the range of 0.04 – 0.05 inches (see the listing of products specifications on page 20 of the Sweet Catalog and page 7 on Restoration Portfolio HP), and the height of each of the seams is shown to be about at least 0.5 inches (note the far right box on product Chatham Ridge on page 11). It would have been obvious to one having ordinary skill in the art to modify the siding of Johnstone et al. to be a single lap, double lap and triple lap sidings and to include the specific width/thickness of the planar portions and seam height as taught by the Sweet Catalog to accommodate the user's preference, the differences in building structures and to achieve a desired look. As for the surface variance/radius curvature of less than 0.05 inches (or at least 85 inches) between the first edge and the second edge, it is noted that Johnstone et al. disclose on col.4, lines 40-55 and figure 2 that the planar portions 46 has a gentle curve which encompass the specific surface variance/radius curvatures claimed in claims 1, 8, 11, 14, 21 and 24 of the instant application.

10. Claims 2, 3, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone et al. and the Sweet Catalog as applied to claims 1 and 14 above, and further in view of Manning et al. Johnstone et al. in view of the Sweet Catalog does not show a foam reinforcement panel secured to the first planar portion. Manning et al. teach securing a foam reinforcement panel (20) to the first planar portion (30) to enhance the thermal insulation property of the siding (10). It would have been obvious to one of ordinary skill in the art to modify the siding of Johnstone et al. and the Sweet Catalog by securing a foam reinforcement

panel secured to the first planar portion as taught by Manning et al. to enhance the thermal insulation property of the siding panel.

Response to Arguments

11. Applicant's arguments filed 11 September 2003 have been fully considered but they are not persuasive. Applicant's arguments regarding the objections to the drawings (specifically, Figure 4) and the introduction of new matter are not persuasive. Figure 4, clearly introduces new matter, not described in the specification. In particular, the "reinforcement panel (90)" is positioned in such a way wherein a portion thereof overlaps or extends beyond the siding panel. Furthermore, there are particular variations in the thickness at the lower portion of the reinforcement panel. These "new matter" features were not described or supported in the specification. The Examiner respectfully disagrees with the Applicant and reasserts that Figures 1-3 fail to indicate the limitations recited in claims 6 and 7, and associatively, objections to the specification remain present.

12. In response to applicant's argument that the combinations of the Grace, Sr. et al. and Sweet Catalog, or Johnstone et al. and Sweet Catalog references fail to meet the limitations of the rejected claims, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The Examiner reasserts the rejections made above in this Office Action. In regards to Applicant's argument that the "gently

curved walls” disclosed by Johnstone et al. display a significant amount of curvature compared to the instant invention is not relevant. Clearly, Fig. 2 of Johnstone et al. discloses a variance and/or curvature. This disclosure, in combination with the teachings of Sweet Catalog clearly meet the limitation of the rejected claims. Lastly, the Manning et al. reference clearly teaches foam reinforcement panel attached to a first planar portion of siding, for the purposes of enhancing the thermal insulative properties of the siding. This is a clear motivational teaching to modify the Johnstone et al. and Sweet Catalog combination.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Fitzgerald whose telephone number is (703) 305-4851. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If

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attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.



JF
12/01/2003

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

